

AMENDED IN ASSEMBLY MARCH 18, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1829

Introduced by Assembly Member Liu

(Principal coauthors: Assembly Members Koretz and Lieber)

*(Coauthors: Assembly Members Chavez, Hancock, Longville,
Montanez, Mullin, and Pavley)*

(Coauthor: Senator Romero)

January 20, 2004

An act to add Chapter 3.55 (commencing with Section 12140) to Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1829, as amended, Liu. Public contracts: services: domestic workers.

Existing law requires a state agency to comply with specified procedures in awarding agency contracts. Existing law authorizes a state agency to prohibit a person that is convicted of committing specified crimes from bidding on or being awarded agency contracts, as specified.

This bill would prohibit a state agency *or local government, as defined*, from *allocating or expending state funds for employment training for employees located in foreign countries, and from* contracting for services with a contractor or subcontractor unless that contractor or subcontractor certifies under penalty of perjury in his or her bid for the contract that the contract, and any subcontract performed under that contract, will be performed solely with workers within the United States. ~~This~~

This bill would also specify that these provisions do not apply if the contractor or subcontractor certifies under penalty of perjury in his or her bid for the contract that the services to be performed under the contract are so specialized that there are not workers within the United States that are trained to perform the services require the contract to include a clause for termination for noncompliance and specified penalties, if the contractor or subcontractor shifts work overseas during the life of the contract.

By requiring contractors and subcontractors to make these certifications under penalty of perjury, this bill would create a new crime and thereby impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. *The Legislature finds and declares all of the*
2 *following:*

3 (a) *The United States has lost nearly 3 million jobs over the last*
4 *three years, with at least 15 percent of these jobs outsourced to a*
5 *foreign country.*

6 (b) *Outsourcing by the state and local government technology*
7 *sector is a growing trend, with an estimated \$10 billion in net*
8 *contract value subject to outsourcing to foreign countries in 2003.*
9 *By 2008, an estimated \$23 billion in net contract value will be*
10 *subject to outsourcing by the state and local government*
11 *technology sector.*

12 (c) *Contractors and subcontractors are using taxpayer dollars*
13 *to create jobs in foreign countries. State taxpayer funds should be*
14 *used to create jobs in the United States and in California.*

15 SEC. 2. Chapter 3.55 (commencing with Section 12140) is
16 added to Part 2 of Division 2 of the Public Contract Code, to read:

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CHAPTER 3.55. OFFSHORING STATE SERVICE CONTRACTS

12140. (a) Notwithstanding any other provision of law ~~and~~
~~except as otherwise provided in subdivision (b), a state agency~~
~~may not, neither a state agency nor a local government in~~
~~expending funds provided by a state agency may~~ contract for
 services with a contractor or subcontractor unless that contractor
 or subcontractor certifies under penalty of perjury in his or her bid
 for the contract that the contract, and any subcontract performed
 under that contract, will be performed solely with workers within
 the United States.

~~(b) The prohibition in subdivision (a) does not apply if the~~
~~contractor or subcontractor certifies under penalty of perjury in his~~
~~or her bid for the contract that the services to be performed under~~
~~the contract are so specialized that there are not workers within the~~
~~United States that are trained to perform the services.~~

(b) Notwithstanding any other provision of law, state funds for
 employment training may not be allocated or expended to train
 employees located in foreign countries.

(c) The contract shall provide that in the event a contractor or
 subcontractor shifts work overseas during the life of the contract,
 the contract shall be terminated for noncompliance and the
 contractor or subcontractor shall forfeit penalties to the state
 agency or local government in an amount equal to the amount paid
 by the state agency or local government for the percentage of
 outsourced work.

(d) As used in this section, the following definitions apply:

(1) "Local government" means any county, city, city and
 county, including a charter city or county, any special district, or
 any other local or regional government entity.

(2) "State agency" means any state office, officer, department,
 division, bureau, board, commission, agency, or any subdivision
 thereof, that is part of state government.

~~SEC. 2.—~~

SEC. 3. No reimbursement is required by this act pursuant to
 Section 6 of Article XIII B of the California Constitution because
 the only costs that may be incurred by a local agency or school
 district will be incurred because this act creates a new crime or
 infraction, eliminates a crime or infraction, or changes the penalty
 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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